

# Exhibit 2

B-1

- VOLUME B -

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF DELAWARE

- - -

IN RE: : Chapter 11 Case  
:  
MARVEL ENTERTAINMENT GROUP INC., THE :  
ASHER CANDY COMPANY, FLEER CORP., :  
FRANK L. FLEER CORP., HEROES WORLD : Case No. 97-638-RRM  
DISTRIBUTION INC., MALIBU COMICS :  
ENTERTAINMENT INC., MARVEL CHARACTERS:  
INC., MARVEL DIRECT MARKETING INC., :  
and SKYBOX INTERNATIONAL INC. :  
:  
Debtors. :

- - -

Wilmington, Delaware  
Tuesday, November 16, 1999  
At 10:05 a.m.

- - -

BEFORE: HONORABLE RODERICK R. McKELVIE, U.S.D.C.J.

- - -

APPEARANCES:

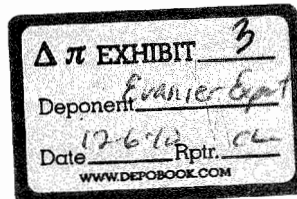
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BY: DAVID B. STRATTON, ESQ.

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BATTLE FOWLER LLP  
BY: DAVID FLEISCHER, ESQ. and  
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Brian P. Gaffigan  
Official Court Reporter



1 APPEARANCES (CONTINUED):

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Counsel for Marvin Wolfman

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P R O C E E D I N G S

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(Proceedings began at 10:05 a.m.)

19

THE COURT: All right. Back up.

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MR. DILIBERTO: If I may, I just want to comment,  
during the day yesterday the expert witness for New Line and  
the employee of Marvel were making faces and gestures at the  
witness all day. I would ask they be excluded from the  
courtroom until they testify or at least admonished not to  
make faces at the witness.

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B-213

Evanier - direct

1 THE COURT: No, I don't. What I'm trying to say  
2 is that it's typical an expert gets on the stand and under  
3 Rule 703 can rely on hearsay for the purpose of bolstering  
4 opinions the expert offers, but it's not too typical. An  
5 expert gets on the stand and you use the expert, lawyers may  
6 attribute that as not too typical, it gets into evidence.  
7 The expert establishes what happens in a particular case with  
8 particular individuals for the purpose of establishing that  
9 as being true for me to take it as true.

10 If you look at it from my perspective, I don't  
11 think that I can rely on this witness for the purpose of  
12 finding as a matter of fact that the events he testified to  
13 in fact happened, in part because the other side has no  
14 real ability to cross-examine the principal actors in the  
15 incident. And, so I don't think it's consistent with the  
16 Rule 11 as to allow him or try to use him to establish  
17 certain facts I would end up finding. If you would look at  
18 the opinion, I wonder if I could cite this witness for those  
19 facts as being true. I don't think I could. I don't think  
20 it's consistent with the Rules of Evidence.

21 So what you want to do, what I was suggesting  
22 is you want to back up, you want to establish through this  
23 witness the general concepts of industry practice that you  
24 think that he wants to establish, and then he might set  
25 examples from his experience and from his knowledge of the

B-214

Evanier - direct

1 community of what he relies on to show that general industry  
2 practice, if that is the direction you are headed.

3 BY MR. DILIBERTO:

4 Q. Okay. Mr. Evanier, in the late 1960s through December  
5 31, 1977, are you aware of any custom or practice in the  
6 comic book industry that gave comic book companies ownership  
7 of materials they published?

8 A. On only a company-by-company basis, what specific  
9 companies may have issued.

10 MR. FLEISCHER: Your Honor, I'll object to this  
11 because it's beyond the scope of the report. Mr. Evanier,  
12 in his report, gave opinions on that subject matter but was  
13 unspecific as to time. And in his deposition, he indicated  
14 that his report was not time specific. And, therefore, any  
15 testimony that he gives with respect to these time specific  
16 questions would be beyond the scope of his report.

17 THE COURT: Overruled.

18 MR. DILIBERTO: Thank you, your Honor.

19 BY MR. DILIBERTO:

20 Q. You were saying?

21 A. Where was I? I'm lost.

22 Q. Okay. Yes. The question was, are you aware of any  
23 comic book industry custom or practice between the late 1960s  
24 to December 31 of 1977 that would have given comic book  
25 companies ownership of any characters and stories that they